MONTANA LEGISLATIVE HISTORY

Chapter 198 19 93

Bill H _____ S 419 Original bill & history ✓ C

H. Committee on Business & Economic Development			S. Committee on Business & Industry		
Hearing Date(s)	Mar 11	✓ C	Hearing Date(s)	Feb 19	✓ C
		C			C
		C			C
		C			C
Date Out	Mar 11	✓ C		Feb 19	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

3/31	SIGNED BY GOVERNOR CHAPTER NUMBER 266 EFFECTIVE DATE: 10/01/93		

SB 419 INTRODUCED BY LYNCH

PROVIDE UTILIZATION OF NONFILING INSURANCE IN LIEU OF FILING, RECORDING, OR OTHERWISE PERFECTING TITLE OR LIEN

2/17	INTRODUCED		
2/17	REFERRED TO BUSINESS & INDUSTRY		
2/17	FIRST READING		
2/19	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/22	2ND READING PASSED	48	0
2/23	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/23	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/23	FIRST READING		
3/11	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	85	13
3/16	3RD READING CONCURRED	83	13
	RETURNED TO SENATE		
3/20	SIGNED BY PRESIDENT		
3/21	SIGNED BY SPEAKER		
3/22	TRANSMITTED TO GOVERNOR		
3/26	SIGNED BY GOVERNOR CHAPTER NUMBER 198 EFFECTIVE DATE: 10/01/93		

SB 420 INTRODUCED BY LYNCH

ALLOW JOINT DEBTORS TO BE COVERED UNDER JOINT POLICY OF CREDIT LIFE OR CREDIT DISABILITY INSURANCE

2/17	INTRODUCED		
2/17	REFERRED TO BUSINESS & INDUSTRY		
2/17	FIRST READING		
2/19	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING PASSED	48	0
2/23	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/23	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/23	FIRST READING		
3/11	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	98	1
3/16	3RD READING CONCURRED	92	5
	RETURNED TO SENATE		
3/20	SIGNED BY PRESIDENT		
3/21	SIGNED BY SPEAKER		
3/22	TRANSMITTED TO GOVERNOR		
3/25	SIGNED BY GOVERNOR CHAPTER NUMBER 179 EFFECTIVE DATE: 10/01/93		

SENATE BILL NO. 419

INTRODUCED BY LYNCH

IN THE SENATE

FEBRUARY 17, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT.
FEBRUARY 22, 1993	SECOND READING, DO PASS.
FEBRUARY 23, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
MARCH 11, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1993	SECOND READING, CONCURRED IN.
MARCH 16, 1993	THIRD READING, CONCURRED IN. AYES, 83; NOES, 13.
MARCH 17, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 18, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 419

INTRODUCED BY Lynch

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE UTILIZATION OF NONFILING INSURANCE IN LIEU OF FILING, RECORDING, OR OTHERWISE PERFECTING ANY TITLE OR LIEN OR FOR SECURING A LOAN TO THE EXTENT THAT THE PREMIUM FOR THE INSURANCE DOES NOT EXCEED THE FEES THAT WOULD OTHERWISE BE PAYABLE FOR FILING, RECORDING, OR RELEASING ANY SECURITY INTEREST; INCREASING TO $15 THE MAXIMUM DELINQUENCY CHARGE THAT MAY BE COLLECTED FOR DEFAULT IN PAYMENT OF AN INSTALLMENT DUE UNDER THE TERMS OF A RETAIL INSTALLMENT CONTRACT; DELETING THE REQUIREMENT THAT CERTAIN DOLLAR AMOUNTS SET FORTH IN SECTION 32-5-302, MCA, ARE SUBJECT TO CHANGE IN ACCORDANCE WITH THE CHANGES IN THE CONSUMER PRICE INDEX; AND AMENDING SECTIONS 31-1-202, 31-1-235, 32-5-301, AND 32-5-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 31-1-202, MCA, is amended to read:

"31-1-202. Definitions. (1) Unless the context requires otherwise, in this part the following definitions apply:

(a) "Cash sale price" means the price stated in a retail installment contract or in a sales slip or other memorandum furnished by a retail seller to a retail buyer

under or in connection with a retail charge account agreement for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of the retail installment transaction, if the sale had been a sale for cash. The cash sale price may include any taxes, registration, certificate of title, license, and official fees and cash sale prices for services, if any, and for accessories and their installation and for delivering, servicing, repairing, or improving the goods.

(b) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(c) "Finance charge" means the amount, as limited by 31-1-241, in addition to the principal balance, agreed upon between the buyer and the seller, to be paid by the buyer for the privilege of purchasing goods or services to be paid for by the buyer in one or more deferred installments.

(d) "Goods" means all chattels personal, including motor vehicles and merchandise certificates or coupons exchangeable for chattels personal but not including money or things in action. The term includes goods ~~which~~ that, at the time of the sale or subsequently, are to be so affixed to realty as to become a part ~~thereof~~ of the realty, whether or not severable from it.

(e) "Holder" means the retail seller of the goods or

services under the retail installment contract or retail charge account agreement or a person who establishes and administers retail charge account agreements with retail buyers; the assignee, if the retail installment contract or the retail charge account agreement or the balance in the account under either has been sold or otherwise transferred; or any other person entitled to the rights of the retail seller under any retail installment contract or any retail charge account agreement.

(f) "Manufactured structure" means any structure, transportable in one or more sections, designed to be used as a single-family dwelling or commercial building with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained ~~therein~~ in the structure.

(g) "Motor vehicle" means any new or used automobile, motorcycle, quadricycle, truck, trailer, semitrailer, truck tractor, and all vehicles with any power, other than muscular power, primarily designed or used to transport persons or property on a public highway, excepting, however, any vehicle which runs only on rails or tracks or in the air.

(h) "Official fees" means:

(i) the fees prescribed by law for filing, recording,

or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction; or

(ii) the premium for insurance in lieu of filing, recording, or otherwise perfecting any title or lien retained or taken by a seller in connection with a retail installment transaction to the extent that the premium does not exceed the fees that would otherwise be payable for filing, recording, or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction.

(i) "Person" means an individual, partnership, corporation, association, and any other group, however organized.

(j) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made ~~therefor~~ and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods.

(k) "Recreational vehicle" means a vehicular type unit that either has its own motor power or is mounted on or drawn by another vehicle, primarily designed as temporary living quarters for recreational, camping, or travel use.

(l) "Retail buyer" or "buyer" means a person who buys goods or obtains services from a retail seller in a retail installment transaction and not for the purpose of resale.

(m) "Retail charge account agreement" means an instrument in writing prescribing the terms of retail installment transactions which may be made under it from time to time under which a retail seller gives to a retail buyer the privilege of using a credit card issued by the retail seller or any other person or other credit confirmation or identification for the purpose of purchasing goods or services from the retail seller, from the retail seller and any other person, or from a person licensed or franchised by the retail seller and under the terms of which a finance charge ~~as defined in this section~~ may be computed in relation to the buyer's average daily balance in the account during the billing cycle or the buyer's balance from time to time.

(n) "Retail installment contract" or "contract" means an agreement evidencing a retail installment transaction entered into in this state under which a buyer promises to pay in one or more deferred installments the time sale price of goods or services, or both. The term includes a chattel mortgage, conditional sales contract, and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for its use a sum

substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or for no further or a merely nominal consideration has the option of becoming, the owner of the goods upon full compliance with the provisions of the contract.

(o) "Retail installment transaction" means a written contract to sell or furnish, or the sale or furnishing of, goods or services by a retail seller to a retail buyer pursuant to a retail charge account agreement or under a retail installment contract.

(p) "Retail seller" or "seller" means a person who sells goods or furnishes services to a retail buyer in a written retail installment contract or written retail installment transaction.

(q) "Sales finance company" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, investment company, or savings and loan association, if so engaged <u>in purchasing retail installment contracts</u>. The term does not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated and successive purchases of retail installment contracts from the same seller.

(r) "Services" means work, labor, and services furnished in the delivery, installation, servicing, repair, or improvement of goods.

(s) "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance and other benefits, if a separate identified charge is made ~~therefor~~ for insurance and benefits, and the amounts of the official fees and the finance charge.

(2) This part does not apply to the lending of money by banks or other lending institutions and securing loans by chattel mortgages of goods in the ordinary course of lending by those banks or other lending institutions. However, this part pertains to the extension of credit by those banks or other lending institutions under retail installment contracts or credit cards issued by those banks or other lending institutions."

Section 2. Section 31-1-235, MCA, is amended to read:

"**31-1-235. Delinquency fee.** The holder may collect a delinquency charge on each installment in default for a period not less than 10 days in an amount not in excess of 5% of each installment or $5 $15, whichever is less, or, in lieu ~~thereof~~ of the charge, interest after maturity on each ~~such~~ installment not exceeding the highest lawful contract rate. In addition to ~~such~~ a delinquency charge, the contract

may provide for the payment of attorneys' fees not exceeding 15% of the amount due and payable under ~~such~~ the contract ~~where such~~ when the contract is referred for collection to an attorney not a salaried employee of the holder of the contract and for court costs and actual and reasonable out-of-pocket expenses incurred in connection with ~~such~~ the delinquency."

Section 3. Section 32-5-301, MCA, is amended to read:

"**32-5-301. Charges, refunds, penalties, filing fees.** (1) Every licensee or holder of a supplementary license ~~hereunder~~ under this part may contract for and receive on any loan of money interest charges as provided under 31-1-112.

(2) Charges in subsection (1) ~~shall~~ must be computed at the applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments. ~~Said~~ The charges ~~shall~~ must be added to the principal of the loan and ~~shall~~ may not be discounted or deducted ~~therefrom~~ from the principal or paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day ~~shall be~~ is considered one-thirtieth of a month.

(3) (a) When any loan contract, new loan, renewal, or otherwise for a period of not more than 61 months is paid in

full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges ~~which shall be~~ that is due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits principle as follows: the amount of the refund or credit ~~shall~~ must be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.

(b) When any loan contract, new loan, renewal, or otherwise for a period of more than 61 months is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges that is due the borrower that is applicable to all fully unexpired months in the contract as originally scheduled or, if deferred, as deferred, following the date of prepayment. For this purpose the applicable charge is the charge which would have been earned for that contract if charges had not been precomputed, by applying to the unpaid principal balance, by the actuarial method, the annual percentage rate disclosed pursuant to federal law, based on the assumption that all

payments were made as originally scheduled. For all loans that may be subject to this section, charges are computed initially in the same manner used to determine the annual percentage rate.

(4) If the contract so provides, the additional charge for any amount past due according to the original terms of the contract, whether by reason of default or extension agreement, may be 5% of the amount past due, and ~~said~~ that amount may be charged only once ~~and no more~~.

(5) (a) The licensee may include in the principal amount of any loan:

(i) the actual fees paid a public official or agency of the state for filing, recording, or releasing any instrument securing the loan; or

(ii) the premium for insurance in lieu of filing or recording any instrument securing the loan to the extent that the premium does not exceed the fees that would otherwise be payable for filing, recording, or releasing any instrument securing the loan.

(b) The licensee may include in the principal amount of any loan bona fide charges related to real estate security and paid to third parties, including:

(i) fees or premiums for title examination, title insurance, or similar purposes, including survey;

(ii) fees for preparation of a deed, settlement

statement, or other documents;

(iii) fees for notarizing deeds and other documents;

(iv) appraisal fees;

(v) fees for credit reports; and

(vi) fees paid to a trustee for release of a trust deed.

(6) ~~No further~~ Further or other charges ~~shall~~ may not be directly or indirectly contracted for or received by any licensee except those specifically authorized by this chapter. ~~No~~ A licensee ~~shall~~ may not divide into separate parts any contract made for the purpose of or with the effect of obtaining charges in excess of those authorized by this chapter. If any amount in excess of the charges permitted by this chapter is charged, contracted for, and received, except as the result of an accidental and bona fide error of computation, the licensee ~~shall have no right~~ to may not collect or receive any charges.

(7) Subsections (2), (3), and (6) of this section apply only to loans on which charges are made on an add-on basis and do not apply to loans on which charges are made on an interest-bearing basis."

Section 4. Section 32-5-302, MCA, is amended to read:

"**32-5-302. Installment payment -- contract period.** (1) ~~No~~ A licensee may not enter into any contract of loan:

(a) of $300 or less, exclusive of charges, under which the borrower agrees to make any scheduled repayment of

principal more than 21 calendar months from the date of making ~~such~~ the contract;

(b) for more than $300 to and including $1,000, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 25 calendar months from the date of making; or

(c) for more than $1,000 to and including $2,500, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 48 calendar months from the date of making.

(2) ~~Every~~ Each loan contract ~~shall require~~ requires payment of principal and charges in installments ~~which shall~~ be that are payable at approximately equal periodic intervals, except that payment dates may be omitted to accommodate borrowers with seasonal incomes. ~~No~~ An installment contracted for may not be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first installment may be payable at any time within 45 days of the date of the loan and the charges for the number of days in excess of 30 from the date of making may be added to the scheduled amount of the installments.

~~(3) The amounts of $300, $1,000, and $2,500 in subsection (1) are subject to change pursuant to the provisions of 32-5-104 on adjustment of dollar amounts.~~"

-End-

the same change needed to be applied to page 4, line 1. He stated joint insurance rates will be regulated by the insurance commissioner upon the passage of SB 420.

John Cadby, Montana Bankers Association, stated he supported SB 420.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Senator Lynch closed on SB 420.

HEARING ON SB 419

Opening Statement by Sponsor:

Senator Lynch, Senate District 35, stated SB 419 would be explained by the proponents.

Proponents' Testimony:

Jerry Loendorf, Montana Consumer Finance Association stated SB 419 would make three changes to the current law. He stated the first change would authorize "non-filing insurance". He stated under normal circumstances on a loan a person would sign a security agreement. The lender would then file the security agreement with the Secretary of State's office. Mr. Loendorf stated there is a filing fee when the lender files with the Secretary's office. He stated the filing of the security agreement would make any other lien against the property fall behind the original lien in priority status. Mr. Loendorf stated the original lender would then always have the first lien on the property in the case of bankruptcy or default on a loan. He stated SB 419 would allow the lender to not have to file the security agreement. He stated the non-filing would be insured for a premium no more than what it would cost to file the document. Mr. Loendorf stated the premium would be included in the closing costs of the loan. He stated the advantage to the seller or the lender would be the elimination of a trip to the Secretary of State's office and SB 419 would saved expenses because there would be no title searches. He stated the person who loaned the money or sold the property would still have the

obligation to foreclose on the secured item. He stated the non-filing insurance now exists in more than 10 states and is effective.

Mr. Loendorf stated the second change regards delinquency charges. He stated the law currently states the amount of a delinquency charges may be %5 or $5, whichever is less. He stated SB 419 would change the law to state the delinquency charges may be %5 or $15, whichever is less.

Mr. Loendorf stated the third change is an adjustment in the dollar amounts under 8-80-307 (Exhibit #1). He stated the change occurs on page 12 on lines 23 through 25. He stated the dollar amounts have been adjusted according to the consumer price index. He went over the changes in Exhibit #1 and how they were integrated into SB 419.

John Cadby, Montana Bankers Association, stated the Association supported SB 419.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Christiaens asked Mr. Loendorf why the language in the bill was changed from $300 to $450. Mr. Loendorf stated the limit was changed because of requirement by law.

Senator Toews asked Mr. Loendorf what would control the non-filing lien. Mr. Loendorf stated there was no controlling device and the non-filing was at the risk of the insurer.

Closing by Sponsor:

Senator Lynch closed on SB 419.

HEARING ON SJR 27

Opening Statement by Sponsor:

Senator Christiaens, Senate District 18 stated SJR 27 would urge Congress to fully fund the completion of the Lewis and Clark National Historic Trail Interpretive Center in Great Falls. He stated community involvement in the Lewis and Clark center has been immense in the Great Falls area. He stated the funds have been raised on the local level through a dedicated group which has been involved in the planning process from the beginning. He stated the community has raised $500,000 on the local level.

Motion/Vote:

Senator Kennedy moved SB 420 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 419

Motion:

Senator Toews moved SB 419 DO NOT PASS.

Discussion:

Senator Toews stated the non-filing portion of SB 419 would allow for double and triple mortgages and he didn't think it was safe. Senator Toews asked if a person filed a lien with the state, there was a record so a person could not do a second mortgage on the item.

Senator Bruski-Maus asked if the non-filing insurance would be the same as title insurance.

Senator Lynch stated the liens only applied to retail installment transactions.

Senator Toews said Mr. Loendorf had stated the mortgages could be doubled and tripled.

Senator Mesaros stated he agreed with Senator Toews.

Senator Rea referred to line 6, page 1 and stated it applied to "any title or lien" for securing a loan. Senator Lynch stated the explanation sheet says, "It authorizes the utilization of non-filing insurance in the place of filing, or recording, or otherwise perfecting any lien taken by the seller, in connection with a retail installment transaction. It requires the premium can be no more than what the seller would have to pay to record a security interest at the court house."

Bart Campbell stated SB 419 is actually coming from the seller or the person who would finance the loan. He stated Senator Toews concerns about the seller protecting their interests are correct because it is from their point of view. He stated what the sellers are asking for is a non-filing insurance instead of a lien perfecting filing. He stated any losses to the lender would be covered by the non-filing insurance.

Senator Mesaros asked what would preclude a person from buying something, putting a lien on it, and then going elsewhere and putting another lien on the same property. Mr. Campbell stated the title would reflect the lienholder's name and the title would have to be presented to another lender before a lien could be

filed.

Senator Toews stated he understood SB 419 to say the title on the boat would show no lien holders because no lien has been filed.

Mr. Campbell stated the lien would show the name of the lender.

HEARING ON SB 387

Opening Statement by Sponsor:

Senator Bianchi, Senate District 39, stated SB 387 would protect insurance consumers from changes in their coverage which adversely affect them when the changes are based on incidences which are not the insurance company's fault. He stated problems arise when numerous natural disasters are claimed against an insurance company and the insurance policy is canceled upon renewal. He stated the individual insured has no control over the "act of God" and should not have his policy canceled. Senator Bianchi stated if there are two claims on a policy within a two year period which are not an "act of God", the insurance company may increase the premium by not more than 10%. He stated that if there is a third claim on the policy which is an "act of God," the insurance company may cancel the policy. He stated he had two amendments which he disbursed to the Committee (Exhibits #7 and #8).

Proponents' Testimony:

Bill Olson, State Legislative Committee for the American Association of Retired Persons (AARP) read from prepared testimony in support of SB 387 (Exhibit #9).

Roseanne Richardson, Insurance Commissioner read from a letter in support of SB 387 (Exhibit #10).

Opponents' Testimony:

Greg VanHorssen, State Farm Insurance, stated he opposed SB 387. He stated the concern of State Farm was with the practical application of the SB 387. He stated SB 387 would remove the flexibility an insurer needs when addressing an undesirable risk. He stated State Farm has never canceled a policy because of acts caused solely by God. He stated he felt there was a need for the insurance company to have the ability to non-renew if there are continuous losses. He stated "act of God" needed further definition. He stated "act of God" would be subject to differing opinions and would depend on the circumstances. He stated insurers would be placed at risk each time they chose to non-renew insurance because of the definition of "act of God". He stated the 25% limitation on premium adjustment would eliminate the insurer's ability to raise premiums for any reason. He also stated section 2, subsection 2, page 3, would allow an individual

EXECUTIVE ACTION ON SB 419

Discussion:

Chair Lynch stated the amendment on the floor was SB 419 DO NOT PASS.

Senator Toews stated he still had some concern about SB 419. He asked Mr. Loendorf if it was possible for a double or triple mortgage on a piece of property. Mr. Loendorf stated it was possible for a double mortgage to happen, but the same thing could happen if a security agreement was not filed. He stated the insurance would insure against the risk of a second mortgage.

Senator Lynch asked Mr. Loendorf if SB 419 was against the consumer. Mr. Loendorf stated SB 419 was not against the consumer in any way.

Senator Gage asked Mr. Loendorf if the second lender on a piece of property would be covered without filing a lien. Mr. Loendorf stated there was a section on page 4 which would protect the subsequent lenders only if they chose to insure the loan.

Motion/Vote:

Senator Christiaens made a substitute motion SB 419 DO PASS. The motion CARRIED 12 to 1 with Senator Toews voting NO.

ADJOURNMENT

Adjournment: 11:55 a.m.

SENATOR J.D. LYNCH, Chair

KRISTIE WOLTER, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 2/19/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	✓		
Senator Christiaens	✓		
Senator Bruski-Maus	✓		
Senator Gage	✓		
Senator Hager	✓		
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Kuehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Toews	✓		
Senator Wilson	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

February 19, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 419 (first reading copy -- white), respectfully report that Senate Bill No. 419 do pass.

Signed: _____
Senator John "J.D." Lynch, Chair

Amd. Coord.
Sec. of Senate

411416SC.San

CHAIRMAN BENEDICT asked **SEN. LYNCH** about the hospital in his region which is 50 miles from a major hospital in Missoula, will these people be able to enter into a PPO arrangement? **SEN. LYNCH** said a rural hospital is not usually in a PPO. He said the people that are insured will have to agree if they want to get into a PPO without having to drive 50 to 100 miles every time they need to go to a hospital.

REP. BRANDEWIE asked **Joyce Brown** where do state employees stand in regards to the hospitals in the different regions, i.e., would the western half of Montana be required to go to St. Patricks in Missoula, and if so, where would the people go from the outlying areas of Kalispell? **Ms. Brown** said PPOs only involve urban areas where there are competing hospitals. But if there are no competing hospitals, then there would be special arrangements for the areas outside of the PPO.

REP. LARSON asked **SEN. LYNCH** why St. Vincent's Hospital and Blue Cross/Blue Shield were the only ones testifying today. Why wasn't the Hospital Association involved with this? **SEN. LYNCH** said the Hospital Association was involved two years ago, and had taken a neutral position this time. He said they approached Great Falls and Missoula, and it is apparent that it has to be in areas where there is more than one hospital.

REP. BARNETT asked **SEN. LYNCH** about section 1, page 5, line 20, it refers to temporary preferred provider agreement, and wanted to know why the word "temporary" was left in there? **SEN. LYNCH** said it is for the coordination clause. He said if this bill doesn't pass, it will go back to prior 1991 before the sunset law was placed on it.

REP. DAILY asked **SEN. LYNCH** what if the service is not provided by a certain hospital? **SEN. LYNCH** said they can refuse any bid if it is not what they are looking for.

Closing by Sponsor:

SEN. LYNCH closed and said he sympathized with the only opponent that testified today, and said they would be worse off with pre-1991 anyway. This is a legitimate compromise and hoped the committee would concur with SB 331.

HEARING ON SB 419

Opening Statement by Sponsor:

SEN. JOHN J.D. LYNCH, Senate District 35, Butte, said SB 419 provides for the utilization of non-filing insurance in lieu of filing/recording, or otherwise perfecting any title or lien or for securing a loan to the extent that the premium for the insurance does not exceed the fees that would otherwise be payable for filing, recording, or releasing any security interest. It increases the maximum delinquency charge that may

be collected for default in payment of an installment due under the terms of a retail installment contract to $15. It deletes the requirement that certain dollar amounts set forth are subject to change in accordance with the changes in the consumer price index.

Proponents' Testimony:

Jerome Leondorf, Montana Consumer Finance Association, said SB 419 makes three changes in the law: 1) allows utilization of non-filing insurance in place of filing a recording or perfecting any lien taken by a seller or lender in connection with a retail sale or consumer loan. The required premium cannot be any more than what a seller or lender would have to pay in order to record a security agreement, i.e., if someone signs with a seller and gives the seller the security agreement, the seller can take that signed agreement to the secretary of state's office and record it for a fee of $7. This bill would allow them to buy non-filing insurance in case there was a default, or haven't filed. If the secretary of state could not collect or repossess the security, they would be able to collect from the insurer. He said the main thing to remember about the bill is it states the premium cannot be anymore than the fee is for filing; 2) it increases the delinquency charge to be made in case of a default on a payment under a retail installment contract. The current law states the amount is 5% of the installment or $5, whichever is less. The change would increase that to 5% for each installment or $15, whichever is less. This amount has not been changed since the law was enacted in 1959, and the increase would be more in-line with the current cost for handling defaults; and 3) on page 12, lines 23 - 25, it states that Title 32-5-104 is not part of this bill, and it these amounts must be adjusted in accordance with the consumer price index.

Bill Leary, Montana Bankers Association (MBA), said the MBA agrees with the concept of the bill, and encouraged the committee to concur in SB 419.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BARNETT asked **Jerry Loendorf** if the people have to file the insurance forms with the secretary of state's office. **Mr. Loendorf** said no. Only if a person uses a security agreement then it is filed with the secretary of state. If someone wants to purchase the insurance then they do not have to file. **REP. BARNETT** asked how long is the life of the insurance? **Mr. Loendorf** said if there was a credit arrangement, a person could continue to have advances of credit for however long they want it.

Closing by Sponsor:

SEN. LYNCH closed.

HEARING ON SB 420

Opening Statement by Sponsor:

SEN. JOHN J. D. LYNCH, Senate District 35, Butte, said SB 420 will allow joint debtors to be covered under a joint policy of credit life or credit disability insurance. He said the days are long gone when the male spouse was the sole earner in a family. In this day and age it is incurred by husband and wife, partners and partnerships. This bill allows people to purchase insurance jointly which is currently done individually. With the double incomes of people today, they need to be covered if something happened to either partner.

Proponents' Testimony:

Jerry Leondorf, Montana Consumer Finance Association, said this bill deals with credit disability insurance. Credit life insurance is purchased to make payments when there is a period of disability. SB 420 is for joint debtors to purchase insurance together in case anything happens to their partner.

Bill Leary, Montana Bankers Association (MBA), stated his support for SB 420.

Bob Pfeifer, Montana Credit Unions (MCU), wanted to be on record in support of SB 420. He said MCU feels that joint credit disability insurance is an important and good policy to have.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

None

Closing by Sponsor:

SEN. LYNCH closed.

REP. LARSON asked **Kim Wilson** to address the proposed amendment change that **Ward Shanahan** had suggested to strike the savings clause in section 8 of SB 320? **Mr. Wilson** said it is his understanding it would take away the language that does not affect "rights and duties that matured", but leave in the penalties that were incurred on the proceedings that have already begun.

Closing by Sponsor:

SEN. MCCLERNAN closed stating that his proposed amendments were an approach to reach some middle ground so the mining people and the environmental people would be equally satisfied, and it is obvious that the amendments did not accomplish this. He asked the committee to consider what the amendments will do, and act on them in the best interest of the people.

EXECUTIVE ACTION ON SB 331, SB 419, AND SB 420

Motion: REP. COCCHIARELLA MOVED SB 331, SB 419 AND SB 420 BE CONCURRED IN.

Discussion: None

Motion/Vote: REP. PAVLOVICH called the question. Voice vote was taken. Motion carried unanimously.

Vote: SB 331, SB 419 AND SB 420 BE CONCURRED IN. Motion carried 18 - 0.

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL DATE 3-11-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993
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HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 419 (third reading copy -- blue) be concurred in .

Signed: S. Benedict

Steve Benedict, Chair

Carried by: Rep. Pavlovich

Committee Vote:

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. LB 719

DATE March 11, 1993 SPONSOR(S) J. D. Lynch

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jerry Lowdal	MT. Cooperative Fishery	✓	
Bill Leary	MT. Bankers Assn	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.